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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,304	01/27/2004	Daniel E. Ford	200316372-1	9204
22879 7590 06/10/2008 HEWLETT PACKARD COMPANY P O BOX 272400, 3404 E. HARMONY ROAD INTELLECTUAL PROPERTY ADMINISTRATION FORT COLLINS, CO 80527-2400				
EXAMINER				
PARK, JEONG S				
ART UNIT		PAPER NUMBER		
2154				
NOTIFICATION DATE		DELIVERY MODE		
06/10/2008		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/765,304

Applicant(s)

FORD ET AL.

Examiner

JEONG S. PARK

Art Unit

2154

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 3/17/2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This action is in response to communications filed March 17, 2008.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 30-32 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 30-32 are drawn towards a computer readable medium having program instructions. The computer readable medium defined in the specification is not in one of the statutory categories. The specification provides no explicit and deliberate definition of the computer readable medium.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-7, 9-11, 13, 14, 16-24, 28-30 and 33-37 are rejected under 35 U.S.C. 102(e) as being anticipated by Moore (U.S. Pub. No. 2004/0003135 A1).

Regarding claims 1, 9, 16, 24 and 29, Moore teaches as follows:

a management station (digital computer system 100 in figure 1, see, e.g., page 2, paragraph [0021]), comprising:

a processor (CPU, 150 in figure 1, see, e.g., page 2, paragraph [0021]);

memory in communication with the processor (155 in figure 1, see, e.g., page 2, paragraph [0021]);

program instructions stored in memory and executable on the processor to (see, e.g., page 2, paragraph [0022]);

initiate execution of a particular device function that will use a driver (perform I/O operations on the various I/O devices contained in the system, see, e.g., page 2, paragraph [0022], lines 11-14);

select a set of drivers (interpreted as a list of possible drivers) based upon defined device information (BUS driver, 260 in figure 2, generates a Physical Device Object (hereinafter PDO) and one or more device Ids for the device, see, e.g., page 3, paragraph [0028])(NEWDEV 210 in figure 2 calls SETUP 220 in figure 2 to build a list of possible drivers that can be used with device, see, e.g., page 3, paragraph [0034], lines 1-3 and step 445 in figure 4); and

call a routine (calling SETUP API) in a particular driver from the selected set of drivers (a list of possible drivers) which executes to determine whether the particular driver is most appropriate to perform the particular device function for a particular device (SETUP 220 in figure 2 assigns a rank to each possible driver in the list and selects the best driver for the newly detected device 165 in figure 1, see, e.g., page 3, paragraph [0035]).

Regarding claim 2, Moore teaches as follows:

perform the particular device function based upon a response from the routine (SETUP is an application programming interface (API) that comprises software routines that perform various device driver installation tasks, see, e.g., page 2, paragraph [0026], lines 7-11).

Regarding claims 3, 18 and 19, Moore teaches as follows:

the program instructions, to initiate the execution of a particular device function and select a set of drivers, are provided within management software (interpreted as an operating system, see, e.g., page 2, paragraph [0024]) and wherein the program instructions to determine whether the particular driver is appropriate are provided within a particular driver (various software components that might be used by the operating system to install a driver for device such as INF files 205, a new device dynamic linked library (NEWDEV) 210, a setup application programming interface (SETUP), a PnP manager 280 in figure 2 and so on, see, e.g., page 2, paragraph [0025]).

Regarding claim 4, Moore teaches as follows:

the program instructions to determine whether the particular driver is appropriate execute to compare a device identifier (device ID) with a driver identifier (INF files 205 in figure 2 are a collection for driver information files that comprises information about drivers in the system, see, e.g., page 2, paragraph [0026], lines 1-3, which inherently includes driver identifier)(SETUP searches to find INF files that contain information that matches the device ID, see, e.g., page 3, paragraph [0034], lines 8-13).

Regarding claim 5, Moore teaches as follows:

the device identifier is a system descriptor string (device descriptor from the device, see, e.g., page 3, paragraph [0028], lines 9-15).

Regarding claim 6, Moore teaches as follows:

the device identifier is a feature (interpreted as a function) enabled on the particular device (each configuration is associated with one or more functions, see, e.g., page 4, paragraph [0039]).

Regarding claim 7, Moore teaches as follows:

the device identifier is a management information base on the particular device (the device descriptor describes information about the USB device such as vender ID, product ID, revision number, and the number of configuration descriptors, see, e.g., page 4, paragraph [0039]).

Regarding claim 10, Moore teaches as follows:

program instructions within the particular driver which execute to initiate a determination of whether the particular driver is appropriate to perform the particular device function (SETUP 220 in figure 2 assigns a rank to each possible driver in the list and selects the best driver for the newly detected device 165 in figure 1, see, e.g., page 3, paragraph [0035]).

Regarding claim 11, Moore teaches as follows:

the INF files are a collection of driver information files that comprises information about drivers located on various storage media contained in the system (see, e.g., page 2, paragraph [0026], lines 1-4);

the device ID is generated by concatenating the operating system ID with the device descriptor information and configuration descriptor information to form a character string that represent the device and operating system (see, e.g., page 4, paragraph [0042], lines 10-14); and

SETUP searches to find INF files that contain information that matches the device ID (see, e.g., page 3, paragraph [0034], lines 8-13).

Therefore inherently the INF files include a set of extensible criteria to determine matching between the device ID and INF files.

Regarding claim 13, Moore teaches as follows:

the selection of a particular driver from the selected set of drivers is based upon a release date of the particular driver (the driver with the most recent date is selected, see, e.g., page 3, paragraph [0035]).

Regarding claims 14, 20, 23, 28 and 30, Moore teaches as follows:

the selection of a particular driver from the selected set of drivers is based upon a device feature supported by the particular driver (the device ID is generated by concatenating the operating system ID with the device descriptor information and configuration descriptor information to form a character string that represent the device and operating system, see, e.g., page 4, paragraph [0042], lines 10-14)(each configuration is associated with one or more functions, see, e.g., page 4, paragraph [0039]).

Regarding claim 17, Moore teaches as follows:

the routine executes if a driver cannot be determined based on the defined device information (SETUP 220 in figure 2 assigns a rank to each possible driver in the list and selects the best driver for the newly detected device 165 in figure 1, see, e.g., page 3, paragraph [0035]).

Regarding claims 21 and 22, Moore teaches as follows:

organizing the set of drivers by a release date of each driver including searching the set of drivers from newest release date to oldest release date (the driver with the most recent date is selected, see, e.g., page 3, paragraph [0035]).

Regarding claims 33-37, regarding a management station, disclose similar limitations as claims 1 and 9 as explained above, therefore the limitations of claims 33-37 are met by Moore.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 15, 25 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moore (U.S. Pub. No. 2004/0003135 A1).

Regarding claim 15, Moore teaches as follows:

the supported device feature is a security protocol (the device descriptor includes protocol associated with each interface, see, e.g., page 4, paragraph [0039]).

Therefore, it would have been obvious for one of ordinary skill in the art at the time of the invention to modify Moore to specify with a security protocol contained in the device descriptor.

Regarding claims 25 and 27, Moore teaches as follows:

the driver with the most recent date (interpreted as applicant's driver release date) is selected (see, e.g., page 3, paragraph [0035]); and

SETUP 220 in figure 2 assigns a rank to each possible driver in the list and selects the best driver for the newly detected device 165 in figure 1 (see, e.g., page 3, paragraph [0035]).

Therefore, it would have been obvious for one of ordinary skill in the art at the time of the invention to modify Moore to include a hierarchy in order to organize the driver release date.

8. Claims 12, 26, 31 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moore (U.S. Pub. No. 2004/0003135 A1) as applied to claims 9, 24 and 29 above, and further in view of Philyaw (U.S. Patent No. 6,704,864 B1).

Regarding claims 12, 26, 31 and 32, Moore teaches as follows:

the INF files are a collection of driver information files that comprises information about drivers located on various storage media contained in the system (see, e.g., page 2, paragraph [0026], lines 1-4);

the device ID is generated by concatenating the operating system ID with the device descriptor information and configuration descriptor information to form a

character string that represent the device and operating system (see, e.g., page 4, paragraph [0042], lines 10-14);

the device descriptor describes information about the USB drive, such as vendor ID, product ID, revision number and the number of configuration descriptors (see, e.g., page 4, paragraph [0039]);

the driver with the most recent date (equivalent to applicant's driver release date) is selected (see, e.g., page 3, paragraph [0035]); and

SETUP searches to find INF files that contain information that matches the device ID (see, e.g., page 3, paragraph [0034], lines 8-13).

Moore teaches all the limitations of claim except for specifying the firmware version identifier for the device and the driver version identifier.

Philyaw teaches as follows:

an architecture for automatically configuring software of a piece of equipment in communication with a network, the software associated with the select one of the one or more machine-resolvable codes is downloaded from the remote location to the piece of equipment, and the piece of equipment is then configured according to the software (see, e.g., col. 2, lines 6-21); and

VRS database comprises firmware ID 3204 in figure 32B related to its version and driver ID 3206 in figure 32B related to its driver version (see, e.g., col. 38, lines 1-21).

It would have been obvious for one of ordinary skill in the art at the time of the invention to modify Moore to include firmware version and driver version information for

a network device configuring process as taught by Philyaw in order to properly configure the network device based on the device or firmware information and the driver or software to be installed.

Response to Arguments

9. Applicant's arguments filed 3/17/2008 have been fully considered but they are not persuasive.

A. Summary of Applicant's Arguments

In the remarks, the applicant argues as followings:

1) Regarding claims 1, 9, 16, 24, 29 and 33, Applicant respectfully submits that the Moore reference does not teach "calling a routine in a particular driver from the selected set of drivers which executes to determine whether the particular driver is most appropriate to perform the particular device function for a particular device", as recited in independent claims 1, 16, and 29. The Moore reference appears to use a PnP Manager (280) to manage software routines from the SETUP application programming interface (220) to select the best driver for a device using INF files associated with the device and does not teach "performing analysis within the particular driver to determine whether the particular driver is appropriate to perform a particular device function", as recited in claim 24.

B. Response to Arguments:

In response to argument 1), Moore teaches as follows:

SETUP is an application programming interface (API) that comprises software routines that perform various device driver installation tasks such as searching the INF

files and building a potential list of device drivers associated with the new device (see, e.g., page 2, paragraph [0026], lines 7-11);

NEWDEV (New Device Dynamic Linked Library) is a DLL (NEWDEV is a software library that comprises software routines that are used to initiate the installation of a driver associated with a new device, see, e.g., page 2, paragraph [0025]-[0026]);

NEWDEV calls SETUP to build a list of possible drivers that can be used with device (see, e.g., page 3, paragraph [0034], lines 1-2); and

SETUP assigns a rank to each possible driver in the list and selects the best driver for device (see, e.g., page 3, paragraph [0035], lines 1-3).

Therefore, the assigning a rank for the potential list of device drivers inherently includes a routine to determine which driver is the most appropriate for the particular device.

As known in the art, a driver is a DLL. Support for this interpretation can be found at www.freebyte.com/drivers/#introduction. This reference states that, in response to the question "What is a Driver?", that "A driver is a program or DLL that controls a device" ("Find Drivers" section, emphasis added). As such, it is the Examiner's position that the DLL NEWDEV would have reasonably of been interpreted as a device driver by one of ordinary skill in the art. By this rationale, the interpretation is proper and therefore the rejection is maintained.

Claims are to be given their broadest reasonable interpretation during prosecution, and the scope of a claim cannot be narrowed by reading disclosed limitations into the claim. See In re Morris, 127 F.3d 1048, 1054, 44 USPQ2D 1023,

1027 (Fed. Cir. 1997); In re Zletz, 893 F.2d 319, 321, 13 USPQ2D 1320, 1322 (Fed. Cir. 1989); In re Prater, 415 F.2d 1393, 1404, 162 USPQ 541,550 (CCPA 1969). In addition, the law of anticipation does not require that a reference "teach" what an appellant's disclosure teaches. Assuming that reference is properly "prior art," it is only necessary that the claims "read on" something disclosed in the reference, i.e., all limitations of the claim are found in the reference, or "fully met" by it. Kalman v. Kimberly-Clark Corp., 713 F.2d 760, 772, 218 USPQ 781,789 (Fed. Cir. 1983).

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JEONG S. PARK whose telephone number is (571)270-1597. The examiner can normally be reached on Monday through Friday 7:00 - 3:30 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn can be reached on 571-272-1915. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. S. P./
Examiner, Art Unit 2154
May 30, 2008

/Joseph E. Avellino/
Primary Examiner, Art Unit 2146